

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION

RODNEY CECIL DEAN,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 10-G-2232-E
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

MEMORANDUM OPINION

The plaintiff, Rodney Cecil Dean, brings this action seeking judicial review of a final adverse decision of the Commissioner of the Social Security Administration (the Commissioner) denying his application for Social Security Benefits. Rodney Cecil Dean filed an application for Social Security Benefits. Thereafter, plaintiff timely pursued and exhausted the administrative remedies available before the Commissioner. Accordingly, this case is now ripe for judicial review pursuant to the provisions of section 205(g) of the Social Security Act (the Act), 42 U.S.C. § 405(g).

The sole function of this court is to determine whether the decision of the Commissioner is supported by substantial evidence and whether proper legal standards were applied. *Bloodsworth v. Heckler*, 703 F.2d 1233, 1239 (11th Cir. 1983). To that

end this court “must scrutinize the record as a whole to determine if the decision reached is reasonable and supported by substantial evidence.” Bloodsworth, at 1239 (citations omitted). Substantial evidence is “such relevant evidence as a reasonable person would accept as adequate to support a conclusion.” Bloodsworth, at 1239. The court has carefully reviewed the entire record in this case and is of the opinion that the Commissioner's decision is supported by substantial evidence and that proper legal standards were applied in reaching that decision.

In particular, the plaintiff’s argument that the ALJ should have accepted the opinion of Dr. Storjohann is unpersuasive. Doctor Storjohann is not a treating source, but rather was retained by the plaintiff to support his disability claim. The ALJ’s decision not to credit Dr. Storjohann is supported by substantial evidence, which includes the consultative psychological evaluation of Dr. Summerlin.

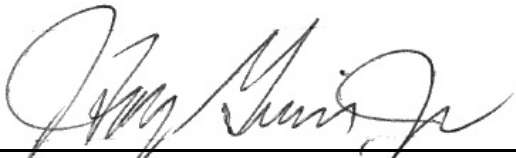
Likewise, the opinion of Dr. McLain was properly rejected by the ALJ. Doctor McLain was retained by the plaintiff to support his disability claim and was not a treating physician. Substantial evidence supports the ALJ’s refusal to credit Dr. McLain’s opinions. This evidence includes the report of the Commissioner’s consultative examiner, Dr. Iyer, who found no deformity or tenderness in the thoracic and lumbar spines. Dr. Iyer also opined the plaintiff “does not have any significant physical limitation.” The ALJ also relied upon MRI scans which were interpreted by the plaintiff’s treating neurosurgeon, Dr. Staner, as “simply show[ing] within normal limits

[degenerative joint disease] for an active person age 53.” Dr. Staner also found the plaintiff to be “very muscular.”

Therefore, the court easily finds that substantial evidence supports the ALJ’s decision. Accordingly, the decision of the Commissioner must be affirmed.

A separate order in conformity with this memorandum opinion will be entered.

DONE and ORDERED 17 February 2011.



UNITED STATES DISTRICT JUDGE
J. FOY GUIN, JR.